

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 26**

**AMERICAN RED CROSS BLOOD
SERVICES TENNESSEE VALLEY REGION¹**
Employer

and

Case 26-RC-8456

**UNITED FOOD & COMMERCIAL WORKERS
LOCAL 1995, AFL-CIO, CLC²**
Petitioner

**ACTING REGIONAL DIRECTOR'S
DECISION AND DIRECTION OF ELECTION**

The Employer, American Red Cross Blood Services Tennessee Valley Region, is a chartered unit of the American Red Cross, a federally chartered corporation with tax-exempt status that is headquartered in Washington, D.C. The Petitioner, United Food & Commercial Workers Local 1995, filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent certain employees in the Employer's mobile collections and apheresis departments. Following a hearing before a hearing officer, the parties filed briefs with me.

Two issues were raised at the hearing and briefed by the parties: (1) whether the Employer is a "health care institution" under Section 2(14) of the Act; and (2) whether the petitioned-for unit of certain employees in the collections and apheresis departments is appropriate. As modified at the hearing, the unit sought by the Petitioner would include about 156 employees consisting of 103 whole blood and apheresis collections techs, 26 mobile unit assistants (MUAs), 1 MUA-F, 13 site supervisors, and 13 phlebotomy technicians. The Employer contends the appropriate unit should also include 152

¹ The Employer's name was amended at the hearing.

² The Petitioner's name was amended at the hearing.

additional employees in 60 additional classifications, for a total of about 308 employees. Alternatively, the Employer asserts that an appropriate unit should include all employees in the mobile collections and apheresis departments. This is the same position the Employer took in proceedings in 1997, 2000, and 2003, where elections were directed in units similar to the unit sought by the Petitioner here.

I have considered the evidence adduced during the hearing, the arguments advanced by the parties on each of the issues, and the prior unit determinations and factors considered in the earlier cases. As discussed below, I have concluded that the Employer is not a “health care institution” under Section 2(14) of the Act. Except for the new position of fixed site collection coordinator, I have concluded that changes in the Employer’s organizational and operational structure are insufficient to warrant a departure from the prior unit determinations. Therefore, I am directing an election in a unit comprised of approximately 157 employees, including all collections technicians, MUAs, MUA-Fs, site supervisors, phlebotomy technicians, automated red blood cell technicians, and fixed site coordinators employed in the mobile collections and apheresis departments at the Employer’s facilities in Nashville, Tennessee and Paducah, Kentucky.

To provide a context for my discussion of the issues and my conclusions, I will first provide an overview of the Employer’s operations and structure. Then I will present the facts and reasons that support my conclusion that the Employer is not a health care institution. Finally, I will present the relevant facts and my analysis regarding the appropriate unit.

I. OVERVIEW OF THE EMPLOYER’S OPERATIONS AND STRUCTURE

The Employer recruits, collects, processes, manufactures and distributes blood/blood products to approximately 64 hospitals and 20 home health agencies and outpatient clinics in a geographic area which encompasses 84 counties in middle Tennessee, western Kentucky and a few counties in southern Missouri and Illinois. To

meet the blood services requirements of its clients/customers, the Employer collects blood at both mobile and fixed sites. Eighty-five percent of the Employer's blood collection operation occurs in mobile units away from fixed site locations. The Employer's permanent fixed sites are located in Nashville, Tennessee and Paducah, Kentucky.³ Additionally, the Employer has temporary fixed sites in Bowling Green, Kentucky; Clarksville, Tennessee; and Murfreesboro, Tennessee which are regularly staffed with staff that are "staged" from the Employer's facilities in Paducah or Nashville. Donor collections for apheresis occur at the two permanent fixed sites and at the temporary fixed site in Murfreesboro.

With regard to supervisory and management structure, Chief Executive Officer Patricia Calliccoat is responsible for overall operations. Eight directors or managers report directly to Calliccoat, including Technical Operations Officer Steve Beeler, Operations Support Director Eileen Ricker, Donor Recruitment Director Carol Miller, Collections Director Connie Gibson, Medical Director Brian Carlson, Communications Manager Patricia Smith, Human Resources Manager James Sturgeon, and Scheduling and Logistics Manager Jerry Antoine.

All employees have the same fringe benefits, salary scale, grievance procedure, employee manual and performance review procedure. The Employer holds quarterly staff meetings that are attended by staff from all departments. The Employer also holds regular cross-functional meetings, which are primarily attended by management and supervisory personnel. Non-supervisory employees only attend these meetings if there is some issue that requires input from them.

Employees sometimes transfer to different classifications. In 2004, 16 such transfers occurred, four of which involved transfers between two classifications that the

³ In 2003, the Employer also had a permanent fixed site at Vanderbilt Hospital in Nashville, Tennessee. That site has since closed.

parties agree should be included in the unit. Four other transfers did not involve any classification that the parties agree should be included in the unit.

An incentive or bonus plan is available for certain employees such as collections technicians, MUAs, site supervisors, schedulers, donor recruitment representatives, telerecruiters and some lab employees. The criteria for determining incentives for employee bonuses vary.

II. HEALTH CARE INSTITUTION

The Employer contends that it is a health care institution within the meaning of the Act so that the Board's rules and regulations concerning health care institutions govern the appropriateness of the unit. The Petitioner claims that the Employer failed to present sufficient evidence to warrant such a finding.

Section 2(14) of the Act defines "health care institution" as "any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged person[s]." In cases where there is no indication that a blood bank performs activities other than the collection, processing and distribution of blood and blood products, the Board has found that the blood bank is not a health care institution within the meaning of the Act. *Dane County American Red Cross*, 224 NLRB 323 (1976); *Green County American Red Cross*, 221 NLRB 776 (1975); *Sacramento Medical Foundation Blood Bank*, 220 NLRB 904 (1975); *San Diego Blood Bank*, 219 NLRB 116 (1975). However, when a blood bank extends beyond these services and performs therapeutic apheresis and therapeutic phlebotomies, both of which indisputably involve patient care, it will be viewed as being a health care institution within the meaning of Section 2(14) when it performs such functions with sufficient regularity and in a sufficient number. *Syracuse Region Blood Center*, 302 NLRB 72, 73 (1991) (between 400 and 600 therapeutic apheresis and therapeutic phlebotomies combined – compared to 94,000 whole blood

donations and 1500 non-therapeutic apheresis procedures – were found to be sufficiently regular and in sufficiently large number to establish that employer was a health care institution).

Here, the Employer does not perform therapeutic apheresis, which involves the periodic removal and separation of whole blood where the diseased or unwanted components are discarded and the rest is returned to the patient. During the 2004 calendar year, the Employer collected 160,000 units of whole blood and 9,000 units of apheresis blood products. During this same period, the Employer performed only 77 therapeutic phlebotomies, which involve the removal of whole blood from individuals with too many red blood cells, and 28 granulocyte apheresis collections, which involved the removal of white or red blood cells.

During calendar year 2004, there were: 2,505 units of autologous donations, donations from an individual who will receive his own blood during a subsequent procedure; 1,191 units of directed donations, donations of whole blood or components for a specific individual; and 232 directed plateletpheresis, donations of plateletpheresis product for a specific individual. Therapeutic phlebotomies, autologous whole blood, directed whole blood, and directed plateletpheresis all require an order from a doctor. None of these blood products were administered to the intended patient at the Employer's facility or by any of the Employer's personnel. Each week, the Employer performs approximately 7 to 10 autologous whole blood donations in a hospital setting.

In 2004, reference lab technologists performed 277 RBC crossmatches and 2,985 platelet crossmatches where prospective units of blood were screened to make sure they were safe for the intended recipient. Additionally, there were 15 HLA matches where platelet products were matched to an intended recipient.

The Employer's medical director, Brian Carlson, M.D., is responsible for authorizing and distributing blood products only; he is not responsible for administering

products to the intended patient. Instead, the product is delivered to the hospital or health care facility where it is administered by the patient's own physician. Carlson is a "transfusion medicine" expert for the geographic region covered by the Employer and, about once a week, consults with physicians, nurses or medical technologists with respect to transfusion medicine.

In its brief, the Employer cites *Oklahoma Blood Institute*, 265 NLRB 1524 (1982), for the proposition that a blood bank performing apheresis is a health care institution. In that case, the Board's finding that the employer was a health care institution was predicated on a stipulation by the parties and was not based on an independent analysis of the facts. Moreover, the employer in that case performed a patient blood transfusion procedure that was administered on a clinic or out-patient basis. This procedure appears to more closely resemble the therapeutic apheresis procedure relied upon by the Board in *Syracuse Region Blood Center* as involving patient care, rather than the apheresis procedure administered by the Employer here. In *Syracuse Region Blood Center*, the Board specifically rejected the argument that the employer's performance of donor apheresis and autologous collection is an indicator that an employer is a health care institution. 302 NLRB at 73.

As noted above, this Employer does not perform any therapeutic apheresis. Regarding therapeutic phlebotomies, the record reveals that the Employer performed only 77 such procedures in 2004, while at the same time it collected 160,000 units of whole blood. In the circumstances here, I find the Employer does not perform either therapeutic apheresis or therapeutic phlebotomies with sufficient regularity and in a sufficient number to be viewed as being devoted to the care of sick persons. Thus, the Employer is not a health care institution within the meaning of Section 2(14) of the Act and I will apply the traditional community of interest test to determine the appropriate unit here. *Syracuse Region Blood Center*, supra.

III. APPROPRIATE UNIT

According to the Employer's organizational chart, the Employer's departments include collections, technical operations, donor recruitment, operations support, and scheduling and logistics (planning). The employees sought by the Petitioner all work at blood drives and/or draw blood and are part of either the mobile collections group in the collections department or the apheresis group in the technical operations department. Each of those departments is discussed in detail below.

A. *Collections Department*

About 155 employees work in the collections department, which is headed by Collections Director Connie Gibson and is responsible for collecting blood from donors at both mobile and fixed sites. Reporting to Gibson are two mobile collections managers, Marlene Guthrie and June Douglas; two operations supervisors, Cindy Whitehead and Glenda Gibson; Mobile Unit Supervisor Jeff Edens, and fleet maintenance technician Wilson Horner. The mobile blood operations are staffed and "staged" out of the Nashville and Paducah fixed sites. About 12 to 15 collections staff are "staged" from Paducah. Collections department employees at the mobile blood drives typically work on a team consisting of MUAs, collections technicians, phlebotomy technicians, site supervisors, and sometimes a collections specialist. Soon the teams will also include automated red cell technicians. Other employee classifications in the collections department include compliance specialist I and III, eBDR coordinator, problem management specialist, collections training specialist, receptionist, and administrative assistant III.⁴

4 Although Employer Exhibit 5 includes one telerecruiter-fixed site with the other mobile collections employees, there was no testimony at hearing that this position is included in the collections department and the Employer's brief does not include this position in the collections department. In addition, the Employer's organizational chart shows fixed site telerecruiters reporting to the telerecruitment supervisor who reports to the donor recruitment director.

MUAs: There are 26 MUAs, and 1 MUA-F, who set up equipment for blood drives and transport blood to the Nashville facility after the drive is completed. The MUA-F has the same duties as other MUAs but is also authorized to drive certain types of vehicles pursuant to DOT regulations.

Before a blood drive begins, MUAs report to the fixed site to pick up their vehicles and carts for the drive. Carts, which contain supplies for the blood drives, are prepared by the mobile unit supply clerk who works at night. MUAs typically arrive at the site an hour or more before other collections team members in order to set up and prepare for the blood drive. During blood drives, MUAs primarily retrieve collected blood and blood donor records (“BDRs”), seal bags of blood, and place the bags on ice. They may also assist the collections staff by making bags for collections or observing donors who have given blood. MUAs do not collect blood from donors but do transport it back to the facility in Nashville. At the end of the drive, MUAs reload equipment into the vehicle and return to the Nashville facility where they unload the collected blood and equipment. Finally, MUAs release collected blood to an employee in the laboratory.

MUAs are paid on an hourly basis and receive incentive bonuses. They regularly work overtime and are subject to a uniform policy. Two MUAs, including the MUA-F, are employed as per diem employees. The MUAs are supervised by Mobile Unit Supervisor Jeff Edens but during a blood drive, like other employees on the drive, MUAs report to the person in charge on the drive, usually a team supervisor or site supervisor.

About nine MUAs also sometimes make deliveries to hospitals, referred to as “milk runs.” Collections Director Connie Gibson testified that three employees make these deliveries each week and six other employees “occasionally” make the runs. The MUAs receive additional pay for those deliveries which are normally made by volunteers or by employees in product management.

Collections Technicians: There are 93 collections technicians whose primary job is to collect blood from donors.⁵ Prior to collecting blood from a donor, collections technicians must ensure that a BDR, a blood donor report containing donor history, is accurately completed and that the donor's vital signs are taken. After the drive is completed, collection technicians clean all equipment and assist with preparing it for return to the facility.

Collection technicians' hours of work vary, but they generally average 50 hours a week. They usually receive their work schedules two weeks in advance of the assignment. The schedules contain the date and time of the drive, team members assigned to a particular drive, and a designation of the person who will be in charge of the drive (i.e. team supervisor, site supervisor or some other individual). Before each drive, collections technicians meet other team members, except MUAs who leave earlier, at the Nashville facility.

Collections technicians, like MUAs, are only at the facility for a limited time and do not generally use the breakroom at the facility, although they do use the time clock at that location to record their hours of work. Collection technicians are hourly employees and subject to a uniform policy; they regularly work overtime and receive incentive bonuses. Two collection technicians are employed as per diem employees.

Automated Red Blood Cell Technicians: At the time of hearing, no employees occupied this new position, but the Employer was in the process of promoting 15 to 22 collections techs into this position. Employees in this position will draw blood manually, but will also use a Baxter Alyx machine that allows them to draw two red cells from a single donation.

⁵ This number does not include 10 collections technicians who work in apheresis.

They will be assigned to various mobile operations, depending on opportunities for qualified donors for the procedure. In addition to drawing blood, automated red blood cell technicians will be responsible for identifying qualified donors for the new procedure and will try to “sell” donors into giving on that machine. Employees in this category will be supervised by Collections Team Supervisors Joe Nuckoles and Jackie Wood. On mobile blood drives, automated red blood cell technicians will report directly to the person in charge of the blood drive. Like the collections techs, the automated red blood cell technicians will be hourly and will have the same schedule as collections techs. They will also wear the same uniform and qualify for the same bonus as collections techs.

Phlebotomy Technicians: There are 13 phlebotomy technicians who are learning to draw blood. This is the entry level position for collections techs. After they learn to perform phlebotomies, phlebotomy techs move into learning other tasks, including donor assessment and eligibility. Phlebotomy technicians are all per diem employees and do not have benefits. Phlebotomy technicians are under the supervision of one of the training specialists.

Site Supervisors: There are 12 site supervisors in the mobile collections department who engage in functions similar to the collections technicians. Specifically, they take donor health histories and vital signs and collect blood. They are hourly employees and are subject to the same uniform policy as the collections technicians.

Site supervisors are in charge of a blood drive when no team leader is present. Among other responsibilities, when they are in charge of a blood drive, site supervisors rotate collections technicians so that no technician is continuously performing the same task. Additionally, they make sure that team members receive their breaks. Site supervisors generally spend 50 to 75 percent of their time as the sole supervisor on a blood drive, although some site supervisors spend as much as 80 to 90 percent of their

time as the sole supervisor on a drive. No party contends they are supervisors within the meaning of Section 2(11) of the Act.

Collections Specialist: Although the parties agreed to include this classification in any appropriate unit, the list of employees in the record does not show any employee in the collections specialist classification. According to the prior decision involving the Employer, the collections specialist gets donor histories, collects blood and is involved in on-the-job training of new staff.

eBDR Coordinator: The eBDR coordinator⁶ position was created in about February 2004. Currently there is one employee in this classification, Sherrie Cummins. The eBDR coordinator is responsible for downloading the current donor database onto laptops weekly so that employees on mobile blood drives have a current data about whether individuals are eligible to donate blood. The eBDR coordinator also maintains weekly contact with MUAs in Paducah since the MUAs there are responsible for downloading the current database.

The eBDR coordinator also provides support for computer equipment on the mobile blood drives and responds to phone calls from staff with respect to computer equipment. She goes to mobile blood drives about once a week to assist with computer equipment problems and is the point of contact for employees on mobile blood drives with respect to computer equipment. She does not wear a uniform.

The eBDR coordinator works Sunday through Thursday. On Sunday, she comes in after lunch and works until sometime that night. On Monday through Thursday she works from 8 a.m. to 4:45 p.m. She carries a company cell phone so she may be reached after regular office hours.

⁶ eBDR is the acronym for electronic blood donation record.

The eBDR coordinator has a desk on the first floor of the Nashville facility, but does most of her work in the eBDR cage where the laptops are stored, in the middle of the warehouse on the ground floor. She does not have much contact with the mobile unit supply clerks and stock inventory assistants, who work in that area.

The eBDR coordinator is supervised by Mobile Collections Manager June Douglas and is required to have extensive computer knowledge. She is not eligible for a bonus.

Compliance Specialists: The four employees classified as compliance specialists, include three compliance specialist I's (Holly Minor, Stephanie Shetler, and Helen Reasonover) and one compliance specialist III (Sandra Morgan). Their direct supervisor is Collections Operation Supervisor Cindy Whitehead.

According to the Employer's job descriptions for compliance specialist I's, they must have a high school diploma or GED and preferably two years of college in a related field or equivalence of two to four years of progressively responsible experience in blood banking. They are responsible for performing daily audits of BDRs, initiating and completing deviations, known as problem management, placing questionable units of blood on hold, resolving discrepancies of questionable units and taking appropriate action on them, and distributing new or revised blood service directives. As noted in 26-RC-8399, compliance specialist I's place compliance-related material in staff mailboxes and review paperwork from blood drives to ensure it is complete. They examine both BDRs and QC sheets, which show the supplies used and whether accommodations for the blood drive were adequate.

Compliance specialist I's have daily contact with lab employees when they release blood for delivery. They also have telephonic contact with collections technicians or supervisors regarding questions or concerns about donors or BDRs. In addition, face-to-face communication between collection techs and compliance specialist I's occur on a weekly basis.

Compliance specialist I's work Tuesday through Friday, and either Saturday or Monday. They rotate working Saturdays and do not work Monday when they work Saturday. Their working hours are somewhat varied, with some starting at about 6 a.m., may include overtime on those occasions when they stay until the end of the shift at 4:45 p.m.

Compliance specialist IIIs must be a registered or licensed practical nurse, hold an associate or baccalaureate degree in nursing or a bachelor's degree in health science, biology, medical technology or equivalent. They must also be currently licensed as a registered or licensed practical nurse, EMT IV or paramedic. The Employer prefers two to three years experience in blood banking for applicants in this position. The employee in this position is responsible for assisting with the coordination and management of all quality control activities, managing deviation and error/accident reports, assisting in regional management of donor reactions and injuries, ensuring compliance with the regional system for identification of questionable units and proper disposition of those units, and ensuring that new or revised blood service directives are distributed according to document control procedures. The compliance specialist III works Monday through Friday.

All the compliance specialists are former collections technicians who work at the Nashville facility on the first floor in the collections department and in the audit room on the second floor when they review BDRs. Compliance specialists do not draw blood, participate in mobile blood operations, travel or wear a uniform. They are not eligible for a bonus.

Problem Management Specialist: The position of problem management specialist was created about August 2004. Currently one employee, Steve Sadler, occupies this position. Prior to August 2004, Sadler was a compliance specialist III. The problem management specialist must possess the same educational requirements as a

compliance specialist III and must be currently licensed as a registered or licensed practical nurse, medical technologist, EMT IV or paramedic. The Employer prefers that applicants have previous experience in blood services collections.

According to the job description, the problem specialist's duties include the following: report and manage problems for the collections department to ensure timely reporting, corrective action and resolution of all problems; track and trend data related to problem management and customer complaints; assist with coordinating and managing all quality control activities; assist in regional management of donor reaction and injuries; ensure compliance with regional system for identification and proper disposition of questionable units; supervise compliance staff in absence of operations supervisor; may assist in training staff; assist in document control activities to ensure document control procedures and timelines are followed; and perform other related duties. Those other duties include answering questions from collections staff, including collections techs and collections supervisors. For serious problems, problem management specialists put together teams from various departments to "brainstorm" possible causes and solutions to the problems. One, or possibly two, different teams meet several times over a period of two or three weeks until the team decides how to correct the problems.

The problem management specialist normally works Monday through Friday from 8 a.m. until 4:45 p.m. unless he needs to adjust his schedule based on his "brainstorming" teams. He works at the Nashville facility on the first floor in the collections department, in the same office as the compliance specialist and is also supervised by Collections Operation Supervisor Cindy Whitehead. The problem management specialist does not draw blood, participate in mobile blood operations, travel or wear a uniform. He is not eligible for a bonus.

Collection Training Specialists: The two collections training specialists, Suzanne Duncan and John Zimmer, conduct new employee "task" training in collections and

apheresis, including instructing new employees on taking donor histories and performing phlebotomies pursuant to BSDs, or blood service directives. The collections training specialists are supervised by Collections Operation Supervisor Glenda Gibson.

Most of the training is conducted at the Nashville facility; however, about two or three times a month training specialists take new employees to a mobile site. On some of those occasions, the collections training specialists actually work on the drive. They work 40 hours a week, Monday through Thursday from 8 a.m. until 4:45 p.m., and on Friday from 7 a.m. until 3 p.m.

The collections training specialists do not generally wear a uniform, but may wear one when they work with phlebotomy techs on drawing blood in the collections area or at a mobile drive. Collections training specialists are not eligible for bonuses. They are required to have a college degree. One of the employees currently in this position is a registered nurse and both were former site supervisors. The Employer employs other training specialists in other departments and employs an education manager and an education coordinator in the technical operations department.

Receptionist: There is one employee, Mamie Bender, who works as a receptionist at a desk, called the “donut”, on the first floor of the Nashville facility. The receptionist’s job duties are essentially unchanged since 2003, except that she no longer serves as back-up for the automated phone system. According to the job description, as modified by the testimony of Collections Director Connie Gibson, the receptionist greets donors and visitors and directs them as appropriate, verifies donor eligibility and prints BDRs, manages donor flow and registers donors by having them sign-in. Basic typing skills are preferred for this position.

The receptionist is not eligible for a bonus and does not draw blood, participate in mobile blood operations, travel or wear a uniform. She works regular hours, five days a week, and is supervised by Collections Team Supervisor Joe Nuckoles. In addition to

regular social contact with collections techs, the receptionist also has daily contact with collection techs at the fixed site in Nashville as she directs and manages donor flow.

Administrative Assistant III: There is one employee, Shirley Baxter, in the position of administrative assistant III in collections. The Employer's organizational chart shows that Baxter is an administrative assistant II who reports directly to Collections Director Connie Gibson. The record does not detail all Baxter's duties but mentions that she occasionally takes supplies to mobile blood drives. The decision in Case 26-RC-8399 discusses an administrative assistant II in the collections department and describes that job as essentially a clerical position. Baxter does not qualify for a bonus.

B. Scheduling and Logistics (Planning)

The planning department, headed by Scheduling and Logistics Manager Jerry Antoine, was created in February 2004. Employer Exhibit 5 lists four classifications in planning: fleet maintenance technician, mobile unit supply clerk, scheduler and administrative assistant III. At hearing, the Employer explained that the fleet maintenance technician and mobile unit supply clerk were included in the planning department only for budget purposes and that they report to people in the collections department.

Fleet Maintenance Technician: There is one fleet maintenance technician, Wilson Horner, who monitors vehicles and ensures that they receive proper preventive maintenance. He deals with all the Employer's vehicles in Nashville and Paducah, including vehicles in hospital services, the lab, and donor recruitment. Auto diesel vehicle maintenance training and experience is preferred, but not required, for this position.

The fleet maintenance technician works with the scheduler to schedule vehicles for maintenance. He also interacts with donor recruitment representatives and collections staff with respect to vehicle maintenance and/or problems. He sometimes loads vehicles for MUAs when they have not had their required rest. Additionally, not more than once a week, he delivers supplies to mobile blood operations.

The fleet maintenance technician was previously an MUA. He works from 5 a.m. until 2 or 2:30 p.m. but is on call 24 hours a day. He receives a uniform allowance and wears a uniform similar to that worn by MUAs. The fleet maintenance technician is assigned to the planning department for budget purposes, but reports directly to Collections Director Connie Gibson. He does not handle blood products and is not eligible for a bonus.

Mobile Unit Supply Clerks: There are two mobile unit supply clerks, Angela Etter and Phillip Ogburn, who work in the warehouse. According to the job description, mobile unit supply clerks clean and repack containers (i.e., carts) with medical and nursing supplies, solutions and equipment for blood mobile trucks; maintain and perform quality control on equipment and supplies; rotate inventory and ensure that supplies comply with quality control standards; inventory and order supplies from the warehouse; complete order requisitions from mobiles; and perform other related duties as necessary.

One of the mobile unit supply clerks is a part-time employee who works in the evening and is responsible for replenishing carts with requested supplies from the warehouse and then delivering the carts to the staging area. Occasionally, this employee helps MUAs unload the blood mobile truck and interacts with MUAs and collections techs when they return items to the warehouse from the blood drive. The other mobile unit supply clerk works during the day and retrieves empty transporters from the prior night and maintains the central supply area. On almost a daily basis, a mobile unit supply clerk delivers additional supplies to a mobile blood drive. Because the mobile unit supply clerks are one of the lowest grades, employees do not transfer into this position. The mobile unit supply clerks are not eligible for bonuses.

For budgeting purposes, mobile unit supply clerks are assigned to the planning department, but they report to the MUA Supervisor Jeff Edens and to Collections Director Connie Gibson. Uniforms are provided, but not required, for the mobile unit supply clerks.

Schedulers: There are two or three schedulers.⁷ According to their job description, schedulers coordinate staffing activities to ensure proper staffing and maintain optimum productivity and quality donor care. In particular, they schedule collections staff and/or mobiles; approve staff vacation, sick leave and other time-off requests based on staffing needs, policies and procedures; plan for rotation of staff for out-of-town, weekend and holiday mobiles and balance workload among collections staff; make motel reservations and billing arrangements; and perform other related duties. As noted in the decision in Case 26-RC-8399, schedulers place confirmed mobile blood drives on the calendar and make assignments within the collections department to staff the mobile collections operations. They also secure coverage if an assigned employee cannot work or needs to be replaced.

Since 2003, there are three changes with regard to the schedulers. First, the schedulers now report to Scheduling and Logistics Manager Jerry Antoine. Second, the schedulers presently manage staff assignments through use of a computer program rather than a manual system. Finally, while the schedulers' work area remains on the first floor, they now work in a different office and are separated from other collections employees.

Schedulers are hourly employees who work Monday through Friday, from 6:30 a.m. until about 3:30 p.m. and from 8 a.m. until 4:45 p.m. One scheduler is on call 24 hours a day in the event collections problems occur after the main facility has closed.

Schedulers do not draw blood, participate in mobile blood operations, travel or wear a uniform. They are eligible for a bonus program, but it is different from the program applied to collections techs. The employees currently in this position transferred from

⁷ While Collections Director Connie Gibson testified that there are three schedulers, Employer Exhibit 5 shows only two employees in this position.

other positions within the collections department. Collections employees interact with schedulers when they report absences and request time off.

Administrative Assistant III: There is one employee, Amy Neal, in this position.⁸ She schedules mobiles on the calendar and manages payroll. According to the job description, this position performs complex administrative duties with little supervision, exercising confidentiality, independent discretion and judgment; maintains statistical and financial records in manual and/or computerized format; prepares reports and studies as requested; prepares FDA-regulated documents and maintains files documenting regulated activities; assists in writing, organizing and maintaining technical sections of departmental procedure manuals; initiates, prepares and edits written materials, correspondence and reports using word processors, computer spreadsheets and computer database management programs; and performs other duties as assigned. According to Callicoat, this classification is not a secretarial position, but requires some data collection and report generation. In addition to a high school diploma, this position requires specialized business or secretarial training and a minimum of three years of work related experience.

Neal is assigned to the planning department and works in the same office as schedulers. Like the schedulers, she reports to Scheduling and Logistics Manager Jerry Antoine. Neal is not eligible for a bonus and does not draw blood, participate in mobile blood operations, have exposure to blood components, travel or wear a uniform. She works regular hours and interacts with collection employees concerning questions about their paychecks, hours and time off. She formerly worked as a scheduler in the apheresis department.

⁸ Although Employer Exhibit 5 shows two employees in this position, the record establishes that the other employee, Shirley Baxter, is in the collections department.

C. *Technical Operations*

The technical operations department, headed by Technical Operations Officer Steve Beeler, includes about 71 employees who report to four managers: Apheresis Manager Teri Youngblood, Laboratory Manager Anita Wiggins, Reference Laboratory Manager Christy Hall, and Education Manager Janie Stone.⁹

Apheresis: Apheresis is a process where platelets are removed from whole blood and the blood is immediately returned to the donor minus the platelets. Apheresis collection occurs at Nashville, Paducah and Murfreesboro. There are 10 apheresis collections technicians and 1 site supervisor (Helen Alderson) in the apheresis department. Their functions are similar to those of the collections technicians who work in the collections department. The apheresis department opens at 10 a.m. on Mondays and Tuesdays, 9 a.m. on Wednesdays and at 7 a.m. on Thursdays, Fridays and Saturdays.

The apheresis department also includes one fixed site coordinator, Michael Tajalle. This is a new position that has three main responsibilities: making sure the department has needed supplies for daily operations; scheduling/rotating daily tasks among the collections techs; and working as an apheresis collections tech. The fixed site coordinator spends about 70 percent of his time working as a collections tech. He wears the same uniform and works the same hours as other employees in the apheresis department. All employees in the apheresis department are eligible for the same bonus. Employees in this department work on the east side of the first floor at the Nashville facility and report to Apheresis Manager Terri Youngblood.

Also reporting to Youngblood is Special Collections Operations Supervisor Deloris Smith. Smith supervises one administrative assistant I, (Barbara Elvord) and one administrative assistant II (Janice Bryant). These two employees take information from

⁹ The Employer's organizational chart shows a fifth manager, Account Manager Jocelynne McCall, but neither party seeks to include any employees who report to her.

physicians' offices about donations. They also interact with collections technicians a few times each week when they schedule autologous, directed, and therapeutic donations. The administrative assistant I spends half of her time filling in for the collections department receptionist. Otherwise, these employees work on the first floor, near the apheresis and collections departments and have limited contact with collections and apheresis employees.

Laboratory

Once blood is collected at a mobile or fixed site, it is taken to the component laboratory for processing into the various component products. Component laboratory staff determine whether the blood and blood products are suitable for release to hospital services (product management) staff who maintain the finished blood product inventory and coordinate distribution of the blood products.

Component laboratory: About 21 employees work in the component lab, including 12 component tech Is, 4 component tech IIs, 2 laboratory assistants, 1 product coordinator, 1 training specialist, and 1 administrative assistant III. The component lab is located on the first floor of the Nashville facility. Most employees in this department work regular shifts, although some of them have flexible hours.

Component technicians receive blood product from collections techs in the apheresis department and from MUAs on mobile blood drives. There is a verification procedure for receiving the blood that ensures that the amount delivered is consistent with the paperwork provided. After they receive the blood, component technicians break the whole blood product into various component products, such as red cells, plasma and platelets.

Although laboratory assistants are involved in the manufacturing process, they do not have the skill level of component technicians. Their duties include cutting down, segmenting and shelving the blood units until they are ready to be labeled.

The product coordinator¹⁰ coordinates shuttles from the collection sites back to the main facility. The shuttles are used in connection with the platelet production. Component technicians, volunteers and MUAs are used for shuttling purposes. This employee has the same amount of interaction with collections techs as component technicians.

The record is unclear regarding job duties for the training specialist and administrative assistant III in the component lab.

Product Management: There are 22 employees in product management, also referred to as hospital services. Nineteen are located at the Nashville facility, including: one administrative assistant II, four hospital service couriers, one hospital service technician II, nine hospital service technicians,¹¹ one hospital/technician service representative, two product coordinators and one inventory/production trainer. One hospital service courier and two hospital service technicians work at the Paducah facility. The hospital service technicians are primarily responsible for packaging and distributing products to the Employer's clients and other Red Cross regions.¹²

Hospital service couriers are responsible for delivering the packaged products to various hospitals or agencies serviced by the Employer. One of hospital services couriers also makes a nightly run from Paducah to bring all collected blood to the facility in Nashville. The courier then returns to Paducah with supplies. The Employer also utilizes

¹⁰ Employer Exhibit 5 lists the classification as product coordinator. Presumably, this is the product shuttle coordinator discussed in the decision in Case 26-RC-8399.

¹¹ There is an additional hospital service technician who works in a sub-department called "nat testing".

¹² There is also one hospital service technician in NAT testing.

paid contractors and volunteers to deliver products. In 2003, volunteers were responsible for 40 percent of the deliveries.¹³

Testing laboratory: Employer Exhibit 5 shows that three lab technologist IIs, one lab technologist I, and five lab technicians work in the testing lab and one quality associate and three quality specialists work in quality. The record is unclear as to whether the quality associate and quality specialists work in the testing labor or in a separate area. These technicians either quarantine and label products, or perform quality control functions. Collections techs in the apheresis department interact with medical lab technicians and medical technologists frequently throughout the day as they deliver palette counts (blood samples) to the laboratory in order qualify donors. Periodically throughout the year, collection techs and lab techs coordinate activities when production is collected for validation to make sure they are following correct procedures. This process has occurred on four occasions in the last six months.

The quality associate and quality specialists conduct “walk-throughs” on blood drives a couple days a week in order to verify that correct procedures are being followed. They also review operations at the fixed sites. They work fixed hours, starting at 7 or 8 a.m., and normally work Monday through Friday. They are “on call” 24 hours a day because they are required to sign off on validation of new equipment and release of questionable product. They do not wear a uniform.

Reference laboratory: There is one reference lab technologist I (Debbie Hendrix) and two reference lab technologist IIs (Mary Hicks and Ellen Burch) who work in the reference lab.¹⁴ Reference technologist IIs have specialties in blood bank accreditation. Both positions require a bachelor’s degree, certification as a medical technologist, and

¹³ Technical Operations Office Steve Beeler was unable to confirm that the percentage of “milk runs” completed by volunteers remained the same as it was in 2003.

¹⁴ According to Employer Exhibit 5, there are two reference lab technologist Is and one reference lab technologist IIs who work in the reference lab.

blood bank experience. Employees in this area provide service to all hospitals in the Employer's region by acting as an extension of the hospital blood banks for transfusions to their patients. The reference lab department provides advice and locates compatible blood when hospital blood banks detect positive antibodies in the blood sample during preliminary testing. According to the decision in Case 26-RC-8399, employees in the reference lab are primarily responsible for performing antibody work-ups to ensure that a product is compatible to a particular request and screen blood for sickle cell trait.

According to Reference Laboratory Manager Christy Hall, employees in the reference lab have little contact with line staff in other departments, including employees in the collections department. Occasionally, reference lab employees work through donor recruitment, telerecruiters and apheresis department employees in order to locate and schedule compatible donors (i.e., rare red cell donors and HLA matched donors). Additionally, reference lab technologists and component tech IIs have face-to-face contact with respect to freezing and thawing extremely rare red blood cell units; reference lab technologists also coordinate activity with QC line staff because both departments use the same samples to cross-match platelets.

The reference lab department is staffed 8 a.m. to 4:45 p.m., Monday through Friday, but an employee is on call 24 hours a day if hospitals have questions or need them to locate compatible blood. Reference lab technologists are on call one week each month to handle after hours needs for the Employer's customers. After normal business hours, messages to reference lab technologists are sometimes relayed through hospital services, component laboratory or testing lab.

The reference lab is located on the first floor of the Nashville facility in the same general area as the component lab. Employees in the reference lab do not participate in mobile blood operations, travel draw blood, or wear a uniform. They are paid on an hourly basis, but are not eligible for bonuses.

Education: There is one education coordinator who is responsible for staff training for the entire region and has contact with all of the departments. The education coordinator maintains all training records and ensures that employees in other departments receive materials relating to revised procedures. Either she or a training specialist conducts training for collections employees.

D. Donor Recruitment

A total of 48 employees work in the donor recruitment department. These employees are responsible for both telerecruiting and direct market recruiting of sponsor groups for blood drives and individual donors for whole blood and apheresis procedures. The department is comprised of employees in the following classifications: donor recruitment representative (DRD representative), senior recruitment representative, administrative assistant I, administrative assistant II, customer service representative and telerecruiters (including mobile, fixed site and lead).

DRD Representatives: There are 15 DRD representatives who are primarily responsible for recruiting large or corporate donors and sponsors for blood drives. Once a drive has been confirmed, DRD representatives provide information about the drive to one of the schedulers. DRD representatives may, but are not required to, attend blood drives. On average, DRD representatives attend about 20 percent of their blood drives for at least some period of time and have contact with employees in the petitioned-for unit when they do so. When DRD representatives attend blood drives, they generally greet donors, assist with crowd control and staff the canteen area where donors go after donating blood. Those functions are typically performed by a volunteer, team supervisor, or site supervisor when DRD representatives are not present.

While DRD representatives perform collateral duties that are associated with the job duties of employees in the petitioned-for unit, they do not perform the essential or regulated duties of these employees. No employee from the petitioned-for unit has ever

been promoted to a DRD representative. In Case 26-RC-8399, there was evidence that a small number of collections technicians had worked as DRD representatives in the past when they were placed on restricted duty.

DRD representatives are salaried and work an average of 45 to 50 hours per week. They are not required to wear a specific uniform. The Employer prefers that DRD representatives possess college degrees.

Senior Recruitment Representatives: There are two senior recruitment representatives who are responsible for maintaining paperwork for the field supervisor and manager as well as having regular recruitment responsibilities. One of the senior recruitment representatives is also responsible for training new recruiters.

Administrative Assistants: There are two administrative assistants in donor recruitment who prepare posters, fliers, and other materials for the blood drives and perform basic clerical duties such as answering the telephones and filing. As they rarely attend blood drives, their contact with employees in the petitioned-for unit is generally limited to telephone conversations that may come from employees in apheresis concerning scheduling issues. This generally occurs when an employee in apheresis cannot reach one of the schedulers.

Customer Service Representative: There are four customer service representatives in the donor recruitment department. The record does not reveal the job duties of these employees.

Telerecruiters: There are 14 fixed site telerecruiters, 9 mobile telerecruiters and 2 lead telerecruiters.¹⁵ Like DRD representatives, telerecruiters recruit donors. However, telerecruiters only contact prior individual donors. Telerecruiters are hourly paid and work between 15 and 40 hours per week, with one or two telerecruiters receiving some

¹⁵ According to Employer Exhibit 5, there is also one fixed site telerecruiter in the mobile collections department.

overtime. Four mobile telerecruiters are per diem employees. The lead telerecruiter is responsible for training mobile and apheresis telerecruiters. Telerecruiters are not required to wear a uniform. Since telerecruiters only attend blood drives in extraordinary circumstances, any contact they might have with an employee in the petitioned-for unit would generally occur in connection with the apheresis process. In that situation, the telerecruiter is actually in the center with the collections staff and would engage in donor assistance functions similar to those performed by the DRD representatives at a blood drive. According to Technical Operations Officer Steve Beeler, telerecruiters interact with collection techs on a daily basis with respect to changes in donor schedules.

E. Operations Support

The operations support department, under the supervision of Operations Support Director Eileen Ricker, includes about 23 employees who deal with facilities, warehouse, donor health, records management, and regulatory functions.

Facilities: There are four employees in the facilities department, including two biomedical equipment technicians and two general maintenance technicians. The general maintenance technicians make repairs on things such as clogged drains and broken windows. They also fill in for the security guard, which involves carrying a cell phone and ensuring employees reach their vehicles safely in the dark. They do not carry a gun.

The biomedical equipment technicians are responsible for performing preventive maintenance and repairs on equipment other than the apheresis equipment. One of the biomedical equipment technicians works mainly at night and focuses primarily on collections equipment. The other biomedical equipment technician works during the day and focuses primarily on equipment in the laboratory and hospital services area.

Warehouse: One stock inventory assistant I and one stock inventory assistant II work in the warehouse. The stock inventory assistants are responsible for ordering,

receiving, stocking, monitoring and distributing supplies for the entire region. Once supplies are purchased, they are stored in the warehouse at the Nashville location.

Donor Health: There are two donor counselor IIs, one compliance specialist III, and one records management specialist who address matters involving products that are unsuitable for distribution. In that regard, they speak with donors who have had abnormal test results and manage products that cannot be distributed. They also review deferral BDRs and work with compliance specialists in the collections department to resolve any issues. They manage autologous donors who have abnormal test results by contacting the physician and hospital to ensure that they still want to receive those units. They coordinate with laboratory techs and administrative assistants or supervisors in special collections to ensure those units are handled appropriately.

Records Management: There are three clerical assistant Is and seven clerical assistant IIs in records management. There are two primary functions for this department: archiving and managing document retention for all departments in the region; and entering data from BDRs. Clerical assistants Is are responsible for maintaining and researching records. Clerical assistant IIs perform data entry of BDRs and download information into the electronic blood donation records which are used by collections staff at the mobile sites.

Regulatory: There is one administrative assistant II, one document control specialist and one quality effects specialist in the regulatory department. The document control specialist is responsible for maintaining and distributing all documents utilized by the region. She ensures that all obsolete documents are destroyed and that staff have current versions of all documents. While the document control specialist maintains necessary documents or forms, the quality effects specialist tracks preventive maintenance on all equipment.

F. ANALYSIS

Nothing in the Act requires the unit for bargaining be the only, ultimate, or most appropriate unit. Rather, the Act only requires that it be *an* appropriate unit. *Overnite Transportation Co.*, 322 NLRB 723 (1996). The fact that an election might be directed in a broader unit does not mean that a narrower unit is not appropriate. *Overnite Transportation Co.*, *supra*; *Faribault Clinic*, 308 NLRB 131, 133 (1992).

The Board has approved other than wall-to-wall units in blood bank-type settings. In *Sacramento Medical Foundation Blood Bank*, 220 NLRB 904 (1975), the Board sanctioned a unit limited to medical laboratory technologists only. In *Greene County Chapter American Red Cross*, 221 NLRB 776 (1975), the Board found appropriate a unit limited to blood dispatchers, rejecting the employer's argument that such a unit was inappropriate inasmuch as it excluded nurses who worked with the dispatchers. In finding a blood dispatchers' only unit appropriate, the Board applied community of interest factors. Similarly, in *Midwest Region Blood Services*, 324 NLRB 166 (1997), the Board approved a unit of collection employees, MUAs and supply clerks. Most recently, in *Laboratory Corp. of America Holdings*, 341 NLRB No. 140 (2004), the Board found appropriate a multi-facility unit of phlebotomists, administrative team leaders, technical team leaders, and reference clerks that excluded customer service representatives and drivers. Thus, there is ample precedent that less than wall-to-wall units are appropriate in blood bank-type settings and consideration of traditional community of interest factors support the conclusion that a unit limited to petitioned-for employees is appropriate.

Employees in the petitioned-for unit work together in teams to collect blood at blood drives. Their hours of work vary each day. They work on the weekends and most spend the vast majority of their working time away from the Nashville facility where most other employees work. Because of their work at blood drives, they regularly have significant personal contact and interaction with donors. They also engage in job

functions that require them to come into contact with donor blood and other fluids. Thus, they have interests and concerns that are different from other employees. Any community of interest they share with other employees is not strong enough to mandate their inclusion in the unit.

The Employer argues that because its operations are so functionally integrated, a wall-to-wall unit is appropriate and that the community of interest between all its employees is so strong that a broader unit is required. In particular, the Employer relies on quarterly staff meetings among all employees, weekly cross-functional meeting, permanent transfers of 16 employees, common employee benefits and procedures (including the same salary scale and employee manual and the same grievance, travel reimbursement, performance review and job bidding procedures), use of common public areas (including smoking area, break room, parking lot and restrooms) and common incentive bonus plans for employees in collections, apheresis, DRD and component laboratory. The Employer also notes interaction, sometimes on a daily basis, among employees in the various departments and sub-departments.

The Employer's argument on functional integration has been rejected in three prior decisions and I find the changes that have occurred since the last decision are insufficient to require a different result, particularly where, as here, the primary factors relied upon in those decisions have not changed. Additionally, as explained below, I find that there are relatively few similarities between working conditions of employees in the unit found appropriate herein and employees in other departments. I also find that the interaction described by the Employer, while sometimes occurring on a daily basis, is limited in nature.

While there are some similarities between the working conditions of employees in the petitioned-for unit and employees in the disputed classifications, the majority of employees in the petitioned-for unit do not work at the fixed site locations and have job

duties different from other employees in the disputed classifications. While other employees receive bonuses, they are calculated in a different manner than those for employees in the petitioned-for unit. Moreover, the uniform policy is different for the employees in the petitioned-for unit. Although interaction among included and excluded employees may occur on a daily, it is limited in nature. Additionally, while there is movement or interchange from the collection department to other departments, only eight transfers involved movement between included and excluded classifications in the calendar year 2004.

In Case 26-RC-8399, there was evidence that collections technicians had worked as DRD representatives in the past when they were placed on restricted duty. In that case, I found that this limited interchange was insufficient to warrant including DRD employees in the unit since only a small number of petitioned-for employees had worked as DRD representatives and since not every collections technicians placed on light duty went to the donor recruitment department. The record in this case reveals no additional evidence that collections technicians worked as DRD representatives when they were placed on restricted duty.

Accordingly, I do not find that the community of interest of the other employees is strong enough to mandate their inclusion in the petitioned-for unit. *J.C. Penney Co.*, 328 NLRB 766 (1999), relied upon by the Employer to support its request for a broader unit, is distinguishable from the instant case. There, the Board included telemarketers over the petitioner's objections where the evidence showed they were loaned to other "included" departments when work demands required extra help; they participated with all employees in the annual inventory; they performed common functions with certain other employees regarding customer inquiries; and there was evidence of routine permanent interchange and some temporary interchange between telemarketing employees and other included employees. In adding telerecruiters to the unit, the Board relied upon the

fact that the telerecruiters worked in the same building, had similar skills, performed similar functions, and had substantial contact with other employees included in the unit. That is not true here.

However, with regard to the fixed site coordinator in the apheresis department, his job duties are similar to those of the collections technicians in the apheresis department and he spends 70 percent of his time performing the same work as collections technicians. Accordingly, I will include the fixed site coordinator in the unit found appropriate here.

IV. CONCLUSIONS AND FINDINGS

Based on the entire record in this proceeding, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.
3. The Petitioner is a labor organization within the meaning of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

INCLUDED: All collection technicians, mobile unit assistants, mobile unit assistant-Fs, phlebotomy technicians, automated red blood cell technicians, site supervisors and fixed site coordinators, including per diem employees in those classifications and employees who are being trained in those classifications, employed in the collections and apheresis departments at the Employer's facilities in Nashville, Tennessee and Paducah, Kentucky.

EXCLUDED: All other employees including confidential employees,¹⁶ office clerical and professional employees, guards, and supervisors¹⁷ as defined in the Act.

V. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by United Food and Commercial Workers, Local 1995, AFL-CIO, CLC. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

A. *Voting Eligibility*

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who

¹⁶ The parties stipulated that the following employees are confidential employees and should be excluded from the unit: Jim Sturgeon, Wendy Morefield, Pam Hooper, Celeste Long and Melony Englert.

¹⁷ The parties stipulated that the following individuals have the authority to hire, fire, or to discipline, or to effectively recommend discipline, or transfer and are supervisors within the meaning of Section 2(11) of the Act: Teri Youngblood, Doris Curry, Wanda Jung, Jacqueline Stanley, Patricia Callicoat, Glenda Gibson, Deloris Smith, Cindy Whitehead, Patricia Anderson, Sandra Armstrong, Marsha Baker, Mary Banks, Norma Foster, Joyce Guynn, Carolyn Lewis, Janice Metzger, Joe Nuckoles, Rita Rains, Nancy Settle, Kaye Frances Walker, Cheryl White, Tonya Wilson, Jackie Wood, Connie Gibson, Patricia Smith, Karen Scott, James Walsh, Kami Faughn, Sandra Bonds, Dale Teal, Carol Miller, Billy Beydler, Patricia Lynn Jones, Janie Stone, Robin Grace, Paul McLean, Anita Wiggins, Marlene Lane, Judith, Cravotta, Cheryl Jones, Barbara Lowery, Judy Todd, Brian Carlson, Gerald (Jerry) Antoine, June Douglas, Mary Marlene Guthrie, Jeffery Edens, Eileen Ricker, Russell McGee, Heather Murphy, Christia (Christy) Hall, Jocelyne McCall, Jacy Farmer, Michelle Henson, Steven Beeler, Dennis Taylor, Faye Thompson, and Jeffrey Berry.

have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, 1407 Union Avenue, Suite 800, Memphis, TN 38104, on or before **March 7, 2005**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are

filed. The list may be submitted by facsimile transmission at (901) 544-0008 or at (615) 736-7761. Since the list will be made available to all parties to the election, please furnish a total of **two** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

VI. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EST on **March 14, 2005**. The request may **not** be filed by facsimile.

Dated at Memphis, Tennessee, this 28th day of February 2005.

/S/ {Thomas H. Smith, Jr.}

Thomas H. Smith, Jr.
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